EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

RICHMOND DIVISION

ePLUS, INC.	:	Civil Action No. 3:09CV620
vs.	:	
LAWSON SOFTWARE, INC.	:	January 21, 2011

COMPLETE TRANSCRIPT OF THE JURY TRIAL

BEFORE THE HONORABLE ROBERT E. PAYNE

UNITED STATES DISTRICT JUDGE, AND A JURY

APPEARANCES:

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MR. ROBERTSON: I apologize, Your Honor. I did highlight the MPEP cite.

THE COURT: Boy, did you get a good start. Then you went to bed.

MR. ROBERTSON: I can do it during the next recess, Your Honor.

MS. ALBERT: Furthermore, the RIMS '989 patent is not available to be used in a prior art combination for purposes of obvious as against Claim One of the '172 patent under 35 U.S. Code Section 103(c)(1) as a matter of law.

The '989 patent was filed April 2, 1993 and issued January 27, 1998 and named inventors Johnson and Momyer, and was assigned to Fisher-Scientific. Section 103(c) reads that subject matter developed by another person which qualifies as prior art only under -- and the relevant subsection here is subsection (e) of Section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were at the time the invention was made owned by the same person or subject to an obligation of assignment to the same person.

So here we have the '989 patent, which can only be prior art under Section 102(e). That patent

was assigned to Fisher-Scientific. And the '172 patent was filed on March 22, 2000, and was assigned to Fisher-Scientific.

The '172 patent has an effective filing date of August 10, 1994. And, therefore, this section 103(c) provides that as a matter of law, the '989 patent, which was commonly assigned at the relevant time, cannot preclude patentability of any claim of the '172 patent.

THE COURT: '172 or '683?

MS. ALBERT: This particular section only applies to Claim One of the '172 patent. Because the statute was amended in 1999. So that's the only one of the three patents that was filed after that statute.

THE COURT: That's under 103(c)?

MS. ALBERT: 103(c)(1).

So we would submit that Your Honor should grant judgment as a matter of law with respect to Lawson's obviousness assertion as against Claim One of the '172 patent based on the statute itself.

THE COURT: Okay.

MS. ALBERT: Further, the combination of the RIMS system and the TV/2 search program lacks several elements of the asserted claims and therefore cannot

developed by another person. It says owned.

MS. STOLL-DeBELL: You're reading 103(c)(1)?

THE COURT: It says owned by the same person.

MS. STOLL-DeBELL: It says subject matter developed by another person. They were developed by another person. They were owned. And I think my argument with 103(c)(1), I admit they were owned by the same person, and that's not my argument. My argument is the word "only." If the prior art qualifies only under one or more subsections (e), (f) and (g). And so this subsection (c)(1) doesn't apply because RIMS doesn't qualify as prior art only under 102(e).

THE COURT: What does it apply under?

MS. STOLL-DeBELL: It also qualifies as prior art under subsections 102(a) known and used before the invention date. And Section 102(b) on sale or publicly used more than one year before the filing date. Therefore, it's not prior art only under Section 102(e). And Section 103(c)(1) does not apply in this case.

THE COURT: That's the whole thing?

MS. STOLL-DeBELL: Yes, Your Honor, and I'm sorry. I mean, I think it gets a little complicated getting into these patent statutes, but that's my

application and that some version of the RIMS system was in effect when she signed that document, which is the trademark application. And the attached document is a brochure. That brochure Dr. Shamos didn't lay any connection to at all. So that is not probative of when this was in the public domain.

If it was a preponderance of the evidence standard, it might very well be something the jury could do, but how could you find that by a clear and convincing evidence when the undisputed evidence from the inventors is that there never was a system such as described in the patent, the '989 patent, which what's his name relied on, Shamos relied on, that everyone would market anywhere.

MR. McDONALD: The testimony --

THE COURT: There were versions that did, but not that one.

MR. McDONALD: But when you put their testimony, and obviously they were bias witnesses fighting this issue, but that time line doesn't lie. Mr. Kinross said he put that time line together with Mr. Momyer looking over his shoulder that shows that all the features relevant to this case were in that RIMS system as of 1993. That brochure does certainly corroborate and bolster that information. That's a